



RAVALLI COUNTY ATTORNEY

205 Bedford Street, Suite C, HAMILTON, MT 59840-2853
Phone (406) 375-6750 Fax (406) 375-6731

RECEIVED
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Ravalli County Commis.

TO: Planning
CC: Commissioners ✓
FROM: Alex Beal, Deputy *AB*
DATE: October 26, 2007

RE: Number of Planning Board Members Constituting a Quorum

You have asked my legal opinion regarding how many members of the Planning Board are necessary to form a quorum. The Planning Board is an 11 member board with 8 current voting members due to 3 unfilled seats. I had initially answered your question by stating that I believed that a majority of the 11 *potential* members was necessary to form a quorum. A well seasoned Montana case belies my quick answer. In *State ex rel. Wilson v. Willis*, 47 Mont. 548 (1913), the Montana Supreme Court stated that nothing "suggests that the phrase 'a majority of the members' could mean more than a majority of those constituting the actual membership of the body at the time; so that, if the full membership is sixteen but at a given time has been in fact reduced by the resignation of one, there are but fifteen members.." The bylaws of the Planning Board state that "A quorum shall consist of a majority of the voting members." § 10(a). Regardless of the bylaws of the Planning Board, by statute:

76-1-304. Quorum -- official action. (1) A majority of members constitutes a quorum.

(2) An action of the planning board is not official unless a quorum is present and unless the action is authorized by a majority of the quorum at a regular or properly called special meeting.

When the above case, statute, and bylaws are read together, it means that the Planning Board currently has 8 voting members. A quorum is thus 5 at this time. So long as 5 or more members of the board are present, a vote of a majority of those members present constitutes a valid act.